IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

OP.No. 20700 of 2000(L)

PETITIONERS:
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1. **C.P.LAKSHMIKUTTY AMMA,**
   24/2130, 'SREECHAKRAM',
   'SREECHAKRAM', MANKAV, CALICUT 673 007.

2. **C.P.SIVASANKARAN, 24/2130,**
   'SREECHAKRAM', MANKAV,
   CALICUT 673 007.

BY ADV. SRI.P.P.JNANASEKHARAN

RESPONDENTS:
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1. **THE CHAIRMAN CUM MANAGING DIRECTOR,**
   CANARA BANK, 112, J.C.ROAD,
   BANGALORE 560 002.

2. **THE DEPUTY GENERAL MANAGER,**
   CANARA BANK, STAFF SECTION (WORKMEN),
   CIRCLE OFFICE, TRIVANDRUM.

BY ADV. SRI.M.C.SEN (SR.)
SRI. M.P.SREEKRISHNAN,
SMT.SHAHNA KARTHIKEYAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.34700/2000 IN OP. NO.20700/2000

DISMISSED

22/06/2007 **SD/- T.R.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE REPRESENTATION DT. 22.4.97 , SUBMITTED BY THE 1ST PETITIONER.

EXT.P2:- COPY OF THE LETTER DT. 6.5.97 ISSUED BY THE DIVISIONAL MANAGER, STAFF- SECTION, CIRCLE OFFICE, TRIVANDRUM.

EXT.P3:- COPY OF THE APPLICATION IN THE PRESCRIBED PROFORMA SUBMITTED BY THE PETITIONERS DT. 13.5.97.

EXT.P4:- COPY OF THE HEIRSHIP CERTIFICATE ISSUED BY THE TAHSILDAR KOZHIKKODE.

EXT.P5:- COPY OF THE CERTIFICATE OF DEPENDENCY IN RESPECT OF THE 1ST PETITIONER ISSUED BY THE TAHSILDAR, KOZHIKKODE.

EXT.P6:- COPY OF THE CERTIFICATE OF DEPENDENCY IN RESPECT OF THE 2ND PETITIONER ISSUED BY THE TAHSILDAR, KOZHIKKODE.

EXT.P7:- COPY OF THE LETTER DT. 24.6.97 ISSUED BY THE 2ND RESPONDENT.

EXT.P8:- COPY OF THE REPRESENTATION DT. 5.7.97 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P9:- COPY OF THE LETTER DT. 19.8.97 , ISSUED BY THE 2ND RESPONDENT.

EXT.P10:- COPY OF THE LETTER DT. 16.2.98 ISSUED BY THE DIVISIONAL MANAGER, CIRCLE OFFICE, TRIVANDRUM.

EXT.P1:- COPY OF THE LETTER DT. 31.8.98, SUBMITTED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P12:- COPY OF THE JUDGMENT DT. 5.8.98 IN OS. NO.549/97 OF THE MUNSIFF'S COURT II, KOZHIKKODE.

EXT.P13:- COPY OF THE REPRESENTATION IN MALAYALAM DT. 10.5.99 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P14:- COPY OF THE OMMUNICATION DT. 17.7.99 ISSUED BY THE 2ND RESPONDENT.

OP. NO.20700/2000

RESPONDENTS EXHIBITS

EXT.R1(a):- COPY OF THE CIRCULAR NO.204/84 DT. 30.4.84 ISSUED BY THE 1ST RESPONDENT.

EXT.R1(b):- COPY OF THE CIRCULAR NO.154/93 DT. 8.5.93 ISSUED BY THE 1ST RESPONDENT.

EXT.R2B:- COPY OF THE SCHEME FOR PROVIDING EMPLOYMENT ON COMPASSIONATE GROUNDS DT. 14.2.05.

/TRUE COPY/

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T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 20700 of 2000-L.

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Dated this the 22nd day of June, 2007.

J U D G M E N T

Petitioners are the mother and brother respectively of deceased C.P.Rajendran. He was working as a Peon in the service of the respondents at the time of his death. He died on 1-4-1997. He was a bachelor and the petitioners were depending upon him for their livelihood. It is averred that the first petitioner is the widow of a freedom fighter late Sri.Sankara Narayana Menon and the second petitioner is his youngest son. He is still an unemployed youth. It is also pointed out that apart from Sri.Rajendran another brother Sri.Sathyanathan of the second petitioner had died in a road accident on 25-8-1985. He was also working as a Peon in the Canara Bank.

2. The substantial prayer in the writ petition is to grant appointment to the second petitioner under the scheme for employment on compassionate ground. Ext.P1 is the representation submitted by the petitioners seeking such appointment. It is also stated that the application in the prescribed format was submitted on 13-5-1997. The second petitioner has not passed SSLC and hence the application was submitted for appointment to the post of Peon. But ultimately the petitioners had a surprise in Ext.P7 where in they were informed that the second petitioner had crossed the upper age limit of 26 and hence the Bank is unable to consider the application

favourably. Again the petitioners pursued the matter by filing various representations and finally by Ext.P14 the respondents again informed them that the representations cannot be considered favourably. In these circumstances the petitioners approached this Court by filing this original petition.

3. A detailed counter-affidavit has been filed by the Bank and an additional counter-affidavit has also been filed. In the counter-affidavit filed, the various averments have been traversed and it is submitted that even though the brother of the petitioner Sri.Rajendran was appointed in the Bank on compassionate ground at the age of 32 years at that time the rule in force provided for a maximum age of 30 which was relaxable by five years. It is also pointed out that presently the upper age limit is 26 years and there is no provision for relaxation.

4. Along with the additional counter-affidavit the respondents have produced Ext.R2(B) the scheme for payment of lumpsum exgratia amount in lieu of employment on compassionate grounds. It is stated that this is the scheme now prevailing from 14-2-2005. In the above scheme there is provision for payment of quantum for exgratia and the ceiling as far as subordinate staff are concerned, is Rs.six lakhs. It is, therefore, evident that as Sri.Rajendran was working as a sub staff, the petitioners will come within the above limit for payment of exgratia amount. Since this original petition was pending here petitioners will be eligible to claim the benefit of the

scheme.

5. The counsel for the respondents submits that if the petitioners submit an application in the proper form seeking benefit of Ext.R2(B) the same will be considered and due action will be taken on the same. Hence it is directed that if the petitioners make an application seeking the benefit of Ext.R2(B) within a period of one month from today, the same shall be considered and due benefit will be released to the petitioner within a period of four months from the date of receipt of the same.

6. This is a case of the family of a freedom fighter who had died penniless and who had refused the pension for freedom fighters. It reveals the utter hardship and the miseries in which the family was put to consequent on the successive demise of two of the sons of the first petitioner who were serving the respondents. The tragic death of the bread winners have resulted in great misery for the petitioners and the first petitioner is now in her eightees and is ailing. Therefore, the respondents will consider the claim of petitioners as directed above, especially in the light of the poor and difficult background of the family.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-